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Docket No.: 5000-0109PUS1
(PATENT)

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Patent Application of:
Eberhard AMMERMAN et al.

Application No.: 10/517,703

Confirmation No.: 9092

Filed: December 13, 2004

Art Unit: 3644

For: DITHIANON-BASED FUNGICIDAL
MIXTURES

Examiner: Y. R. Abbott

LETTER

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Subsequent to the filing of the above-identified application on December 13, 2004, attached hereto is an English translation of the International Preliminary Examination Report (Form PCT/IPEA/409) that should be made of record in the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or to credit any overpayment to Deposit Account No. 02-2448 for any

Application No.: 10/517,703

Docket No.: 5000-0109PUS1

additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17; particularly, extension of time fees.

Dated: September 23, 2005

Respectfully submitted,

By 

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Attachment(s)



PATENT COOPERATION TREATY

From the INTERNATIONAL BUREAU

PCT/EP2003/006887

AP 50038 el.

US - B1102

NOTIFICATION OF TRANSMITTAL
OF COPIES OF TRANSLATION
OF THE INTERNATIONAL PRELIMINARY
EXAMINATION REPORT
(PCT Rule 72.2)

To:

Patente, Marken u. Lizenzen

02. März 2005

BASF AKTIENGESELLSCHAFT
67056 Ludwigshafen
ALLEMAGNE

1. AST
2. Ref

Phase beendet 12.11.04

Date of mailing (day/month/year) 24 February 2005 (24.02.2005)	
Applicant's or agent's file reference 53698 WO/NI	IMPORTANT NOTIFICATION
International application No. PCT/EP2003/006887	International filing date (day/month/year) 30 June 2003 (30.06.2003)
Applicant BASF AKTIENGESELLSCHAFT et al	

1. Transmittal of the translation to the applicant.

The International Bureau transmits herewith a copy of the English translation made by the International Bureau of the international preliminary examination report established by the International Preliminary Examining Authority.

2. Transmittal of the copy of the translation to the elected Offices.

The International Bureau notifies the applicant that copies of that translation have been transmitted to the following elected Offices requiring such translation:

AZ, CA, CH, CN, CO, GH, KG, KP, KR, MK, MZ, RU, TM

The following elected Offices, having waived the requirement for such a transmittal at this time, will receive copies of that translation from the International Bureau only upon their request:

AE, AG, AL, AM, AP, AT, AU, BA, BB, BG, BR, BY, BZ, CR, CU, CZ, DE, DK, DM, DZ, EA, EC, EE, EP, ES, FI, GB, GD, GE, GM, HR, HU, ID, IL, IN, IS, JP, KE, KZ, LC, LK, LR, LS, LT, LU, LV, MA, MD, MG, MN, MW, MX, NO, NZ, OA, OM, PH, PL, PT, RO, SD, SE, SG, SK, SL, TJ, TN, TR, TT, TZ, UA, UG, US, UZ, VC, VN, YU, ZA, ZM, ZW

3. Reminder regarding translation into (one of) the official language(s) of the elected Office(s).

The applicant is reminded that, where a translation of the international application must be furnished to an elected Office, that translation must contain a translation of any annexes to the international preliminary examination report.

It is the applicant's responsibility to prepare and furnish such translation directly to each elected Office concerned (Rule 74.1). See Volume II of the PCT Applicant's Guide for further details.

The International Bureau of WIPO
34, chemin des Colombettes
1211 Geneva 20, Switzerland

Authorized officer

Yolaine Cussac

Facsimile No.+41 22 740 14 35

Facsimile No.+41 22 338 70 80

Translation

PATENT COOPERATION TREATY

PCT/EP2003/006887



PCT

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 53698 WO/NI	FOR FURTHER ACTION See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/EP2003/006887	International filing date (day/month/year) 30 June 2003 (30.06.2003)	Priority date (day/month/year) 08 July 2002 (08.07.2002)
International Patent Classification (IPC) or national classification and IPC A01N 43/32, 43/54, A01N 43/32		
Applicant BASF AKTIENGESELLSCHAFT		

- This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
- This REPORT consists of a total of 4 sheets, including this cover sheet.

☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

 These annexes consist of a total of _____ sheets.
- This report contains indications relating to the following items:
 - I ☒ Basis of the report
 - II ☐ Priority
 - III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
 - IV ☐ Lack of unity of invention
 - V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
 - VI ☐ Certain documents cited
 - VII ☐ Certain defects in the international application
 - VIII ☐ Certain observations on the international application

Date of submission of the demand 18 December 2003 (18.12.2003)	Date of completion of this report 12 February 2004 (12.02.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/EP2003/006887

I. Basis of the report

1. With regard to the elements of the international application:*

☒ the international application as originally filed☒ the description:

pages _____ 1-9 _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

☒ the claims:

pages _____ 1-8 _____, as originally filed
pages _____, as amended (together with any statement under Article 19
pages _____, filed with the demand
pages _____, filed with the letter of _____

☐ the drawings:

pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

☐ the sequence listing part of the description:

pages _____, as originally filed
pages _____, filed with the demand
pages _____, filed with the letter of _____

2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.
These elements were available or furnished to this Authority in the following language _____ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
☐ the language of publication of the international application (under Rule 48.3(b)).
☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/or 55.3).

3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
☐ filed together with the international application in computer readable form.
☐ furnished subsequently to this Authority in written form.
☐ furnished subsequently to this Authority in computer readable form.
☐ The statement that the subsequently furnished sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages _____
☐ the claims, Nos. _____
☐ the drawings, sheets/fig _____

5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).**

* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

** Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/06887

I. Basis of the report

1. This report has been drawn on the basis of *(Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to the report since they do not contain amendments.)*:

The documents cited in this preliminary examination report are numbered in the same order as they appear in the international search report.

INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.
PCT/EP 03/06887

V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

1. Statement

Novelty (N)	Claims	1-8	YES
	Claims		NO
Inventive step (IS)	Claims	1-8	YES
	Claims		NO
Industrial applicability (IA)	Claims	1-8	YES
	Claims		NO

2. Citations and explanations

The present invention relates to a synergistic fungicidal composition which contains dithianon and a pyrimidine derivative of formula (II) (see claim 1).

D1 describes synergistic fungicidal compositions based on, *inter alia*, pyrimethanil (corresponding to the present formula (II)). However, it does not mention dithianon.

D2 describes synergistic fungicidal compositions based on dithianon. However, it does not mention any active substance having the present formula (II).

The synergistic effect of the use of the two components according to the invention is considered to be unforeseeable.

The present application therefore meets the requirements of PCT Article 33(2) to 33(4) because the subject matter of claims 1-8 is novel over the prior art as defined in the Regulations (PCT Rule 64.1-64.3), involves an inventive step (PCT Rule 65.1-65.2) and is industrially applicable.